



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANT: Richard D. Capps et al.
SERIAL NO: 09/160,503
FILING DATE: September 24, 1998
TITLE: Apparatus And Method For Handling Special
Windows In A Display
EXAMINER: Nhon (Gary) D. Nguyen
ART UNIT: 2179
ATTORNEY DKT: P2267/1021

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
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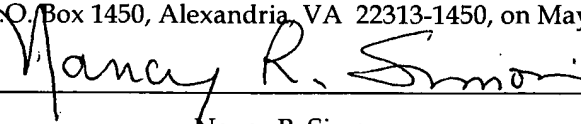
Dear Sir:

This appeal is from the office action dated November 16, 2004 finally rejecting claims 1-12, 21-32, and 41-51, which are reproduced as an Appendix to this brief.

CERTIFICATE OF MAILING

37 C.F.R. 1.8

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Nancy R. Simon

REAL PARTY IN INTEREST

The real party in interest is the assignee, Apple Computer, Inc., located in Cupertino, California.

RELATED APPEALS AND INTERFERENCES

There are no appeal or interference proceedings in the present application. In related patent application 08/900,964 entitled "System And Method For Generating High-Luminance Windows On A Computer Display Device", the Board of Patent Appeals and Interferences issued a Decision on Appeal on April 15, 2003 in Appeal number 2002-1304. A copy of this Decision is included in the Appendix. On September 7, 2004, Appellant filed a second Notice of Appeal in related patent application 08/900,964.

STATUS OF CLAIMS

Claims 1-12, 21-32, and 41-51 stand finally rejected by the Examiner. Appellant appeals the final rejection of claims 1-12, 21-32, and 41-51.

STATUS OF AMENDMENTS

All amendments have been entered. Appellant did not file an amendment after final action.

SUMMARY OF CLAIMED SUBJECT MATTER

A window manager (314) embeds at least one key signal (710) and special window information into a video signal (see Figure 7A and 7B and page 19, line 6 to page 23, line 2). The window manager may be included in an operating system (312) for a computing system (100) (see Figure 3 and lines 17-22 on page 12). A window decoder (416) detects the key signal and extracts the special window information from the video signal. The window decoder (416) then selectively generates a display control signal that indicates which portion or portions of the video signal are to be processed differently from the remaining video signal (see Figure 4 and page 13, line 14 to page 14, line 12). The portion or portions correspond to one or more target or content areas (512) within the special window or windows (200) that are processed specially or differently from the other displayed information. An output signal based on the video signal and the presence or absence of the display control signal is then generated, and the special processing results in one or more special windows (200) being displayed on a display (112) with one or more display attributes that differ from non-processed portions (see Figure 5 and page 14, line 14 to page 16, line 20).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

(1) Whether claims 1-4, 21-24, 42-48, and 50 are anticipated by United States Patent 6,052,676 by Hekmatpour.

(2) Whether claims 5-9, 12, 25-29, 32, and 41 are obvious in view of Hekmatpour and United States Patent 6,169, 533 by Tse.

(3) Whether claims 10 and 30 are obvious in view of Hekmatpour, Tse, and United States Patent 6,075,531 by DeStefano.

(4) Whether claims 11 and 31 are obvious in view of Hekmatpour, Tse, and United States Patent 4,907,174 by Priem.

(5) Whether claims 49 and 51 are obvious in view of Hekmatpour, Tse, and United States Patent 5,841,420 by Kaply.

ARGUMENTS

(1) Whether claims 1-4, 21-24, 42-48, and 50 are anticipated by Hekmatpour

Hekmatpour discloses a method and system for presenting interactive hypermedia objects on a computer system. Hypermedia applications, such as computer software training modules, provide on-line interactive multimedia training programs for users such as system operators and technicians. The hypermedia interface in Hekmatpour is based on hypermedia modules that are partitioned into logical pages. "A logical page consists of a set of windows containing images (e.g. still, video, animation, graphics) and all associated description (text and audio). In other words, a logical page is the predefined collection of all related information (e.g. text, graphics, images, audio, instruction, animation, video clips) which can be made available to the user" (see col. 4, lines 24-33). Examples of various logical page templates are illustrated in figures 2a-2p and figures 3a and 3b. A logical page has one primary window and none, one, or more secondary windows. A logical page may contain many different hypermedia objects, but can only be opened by a call to its primary window. All other windows in a logical page are dependent and automatically linked to the primary window (or other secondary windows) or are pop-up windows which are activated via hypermedia links (see col. 4, lines 48-59).

Claims 1-4 and 44

No Evidentiary Support In The Record

The Manual Of Patent Examining Procedure states “[i]t is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.” Section 2144.03(A). Furthermore, “any such facts so noticed should be of notorious character and serve only to ‘fill in the gaps’ in an insubstantial manner which might exist in the evidentiary showing made by the examiner to support a particular ground for rejection.” Section 2144.04(E). And if an “applicant challenges a factual assertion as not properly officially noticed or not properly based upon common knowledge, the examiner must support the finding with adequate evidence.” Section 2144.04(C).

Appellant respectfully submits the Examiner makes several factual assertions without any evidentiary support in the record to reject claims 1-4 and 44. The factual assertions include:

(1) Any window that accesses other programs or procedures of any type is also a program manager (see page 2 of final office action).

(2) Such software inherently teaches a processor that acts as a window decoder for extracting special window information from said video signal and responsively generating a display control signal (see page 3 of final office action).

(3) Any type of circuitry that translates input entered into computer readable signals then back to human readable output is a type of window decoder (see page 3 of final office action).

Appellant challenged these assertions and requested evidentiary support be produced in the Amendments dated May 3, 2003 and August 9, 2004. The Examiner did not respond to Appellant's request and failed to produce any evidentiary support for such factual assertions. Appellant therefore requests reversal of the final rejections of claims 1-4 and 44.

Anticipation

In order for a reference to anticipate an invention, each and every element of the claimed invention must be found in a single reference. "Moreover, it is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." Ex parte Levy, 17 USPQ2d 1461, 1462 (Bd Pat App & Inter 1990). Section 2131.01 of the MPEP further states the "identical invention must be shown in as complete detail as is contained in the ... claim. The elements must be arranged as required by the claim..." Appellant respectfully submits that Hekmatpour does not anticipate Appellant's claimed invention because Hekmatpour does not teach or disclose each and every element of the claimed invention.

Independent claim 1 recites, in relevant part, "a window manager to embed special window information in a video signal." Nothing found in Hekmatpour embeds special window information in a video signal. Moreover, the Examiner does not clearly specify where this element in claim 1 is found in Hekmatpour. The Examiner states a "window driven program such as, for example, Microsoft Word can manage a word document and window settings; therefore, a window driven program is both a program manager and a window manager" (see page 13 of final office action). The Examiner also argues the "buttons demonstrate a type of window manager for running programs" (page 2 of final office action). Appellant disagrees with the Examiner on both points. A window manager as claimed by Appellant is not disclosed by a window

driven program. And the buttons do not teach a window manager “to embed special window information in a video signal.” Appellant therefore submits Hekmatpour does not teach “a window manager to embed special window information in a video signal.”

With respect to embedding special window information in a video signal, the Examiner argues “special window information must be inherently embedded within a video signal in order for window system [sic] to process to display differently [sic] from other different type of displays such as text or audio display” (see page 14 of final office action). Appellant respectfully disagrees with the Examiner’s statement. Special window information does not have to be embedded within a video signal. Appellant notes the Examiner did not provide any evidence to support his statement to Appellant. Additionally, Appellant does not understand what the Examiner means by different types of displays such as text or audio displays.

Independent claim 1 further recites “a window decoder to extract said special window information from said video signal and responsively generate a display control signal, wherein said display control signal enables special processing of portions of said video signal associated with said one or more special windows.” The Examiner claims the windows software shown in figures 2i-2p of Hekmatpour “inherently teach a processor that acts as a window decoder for extracting special window information from said video signal and responsively generating a display control signal” (page 3 of final office action). The Examiner also argues that “video data requires some type of decoding process” and that “any type of circuitry that translates input entered into computer readable signals then back to human readable output is a type of window decoder.”

Appellant respectfully disagrees with the Examiner. A window decoder as claimed by Appellant is not disclosed in Hekmatpour. The windows shown in figures

2i-2p are examples of templates for logical pages. Appellant submits Hekmatpour does not teach "a window decoder to extract said special window information from said video signal and responsively generate a display control signal, wherein said display control signal enables special processing of portions of said video signal associated with said one or more special windows."

Appellant also disagrees with the Examiner's claim that "video data requires some type of decoding process." Video data does not require some type of special decoding process in order to be displayed differently from text data, as claimed by the Examiner. Appellant notes the Examiner did not provide any evidence to Appellant to support this factual assertion.

Appellant further disputes the Examiner's claim that "any type of circuitry that translates input entered into computer readable signals then back to human readable output is a type of window decoder." Appellant's claim 1 recites "a window decoder to extract said special window information from said video signal and responsively generate a display control signal, wherein said display control signal enables special processing of portions of said video signal associated with said one or more special windows." This aspect of the claimed invention is not disclosed by "any type of circuitry that translates input entered into computer readable signals then back to human readable output."

With respect to extracting special window information from a video signal, the Examiner states on page 14 of the final office action "Hekmatpour's window system must inherently extract window information from a video signal in order to generate a video display (with display attributes) on a right window, in the logical partitioned logical pages, that differ from different windows such as text, audio." Appellant notes Hekmatpour does disclose a window numbering and window identification technique

that are used to link to and select a window (see col. 4, lines 61-64). This window numbering and identification technique, however, does not teach a window decoder to “extract said special window information from said video signal and responsively generate a display control signal, wherein said display control signal enables special processing of portions of said video signal associated with said one or more special windows, and wherein said special processing results in said one or more special windows being produced on said display with one or more display attributes that differ from non-processed portions of said video signal.”

Independent claim 1 also recites “responsively generate a display control signal, wherein said display control signal enables special processing of portions of said video signal associated with said one or more special windows.” The Examiner does not discuss where this aspect of the claimed invention is found in Hekmatpour. Appellant respectfully submits nothing found in Hekmatpour teaches “special processing of portions of said video signal.”

The Examiner does argue the external application controls shown in figure 2p teach the control signal that enables special processing of portions of the video signal (the Examiner stated figure 2n but that figure does not depict external application controls). Appellant is unable to find, however, where Hekmatpour describes the function or purpose of the external application controls shown in figure 2p. Appellant therefore submits the Examiner reads Appellant’s disclosure into Hekmatpour and then concludes figure 2p teaches “responsively generate a display control signal, wherein said display control signal enables special processing of portions of said video signal associated with said one or more special windows.” Appellant respectfully submits Hekmatpour does not teach this aspect of the claimed invention.

And finally, independent claim 1 recites “wherein said special processing results in said one or more special windows being produced on said display with one or more display attributes that differ from non-processed portions of said video signal.” One example of a display attribute is increased luminance (see page 13 of Appellant’s specification). The Examiner argues the video animation window in figure 2n in Hekmatpour is a special window. Nothing found in Hekmatpour teaches displaying the video animation window, or any other window, with a display attribute that differs from the non-processed portions of said video signal.

The Examiner states on page 14 of the final office action that “each of Hekmatpour’s sub-windows is a special window in its own sense whether it is used to display text, chart, graphic, audio or video because the applicant does not clearly define ‘special window’ in the claim language.” Appellant disputes this statement. Independent claim 1 clearly recites “said special processing results in said one or more special windows being produced on said display with one or more display attributes that differ from non-processed portions of said video signal.” None of the sub-windows in Hekmatpour are displayed with one or more differing display attributes that differ from non-processed portions of said video signal. Appellant submits the fact that one sub-window may display text while another sub-window displays a chart does not teach this aspect of the claimed invention.

“Claims in dependent form shall be construed to incorporate by reference all the limitations of the claim incorporated by reference into the dependent claim.” 37 CFR 1.75. Therefore, claims 2, 3, 4, and 44 include all the limitations of claim 1. Since Hekmatpour does not anticipate independent claim 1 for at least the reasons discussed above, Appellant respectfully submits claims 2, 3, 4, and 44 are also not anticipated by Hekmatpour.

Claims 21-24 and 45

No Evidentiary Support In The Record

Appellant respectfully submits the Examiner makes several factual assertions without any evidentiary support in the record to reject claims 21-24 and 45. The factual assertions include:

(1) Video data requires some type of decoding process (see page 4 of final office action).

(2) Any sub-window is a type of special window (see page 4 of final office action).

Appellant challenged these assertions and requested evidentiary support in the Amendments dated May 3, 2003 and August 9, 2004. The Examiner did not respond to Appellant's request and failed to produce any evidentiary support for such factual assertions. Appellant therefore requests reversal of the final rejections of claims 21-24 and 45.

Anticipation

Independent claim 21 recites, in relevant part, "embedding special window information in a video signal." As discussed earlier, nothing found in Hekmatpour embeds special window information in a video signal. Appellant also disagrees with the Examiner's statement that "special window information must be inherently embedded within a video signal in order for window system [sic] to process to display differently [sic] from other different type of displays such as text or audio display" (see page 14 of final office action). Special window information does not have to be

embedded within a video signal. Additionally, Appellant does not understand what the Examiner means by different types of displays such as text or audio displays.

Independent claim 21 further recites “extracting said special window information from said video signal.” The Examiner claims the windows software shown in figures 2i-2p of Hekmatpour “inherently teach a processor that acts as a window decoder for extracting special window information from said video signal and responsively generating a display control signal” (page 3 of final office action). The windows shown in figures 2i-2p are examples of templates for logical pages. Hekmatpour does not teach “extracting said special window information from said video signal.”

The Examiner also argues “Hekmatpour’s window system must inherently extract window information from a video signal in order to generate a video display (with display attributes) on a right window, in the logical partitioned logical pages, that differ from different windows such as text, audio.” Appellant notes Hekmatpour does disclose a window numbering and window identification technique that are used to link to and select a window (see col. 4, lines 61-64). This window numbering and identification technique, however, does not teach “extracting said special window information from said video signal” and “generating a display control signal in response to said window information to enable different processing of portions of said video signal associated with said one or more special windows, wherein said different processing results in said one or more special windows being produced on said display with one or more display attributes differing from non-processed portions of said video signal.”

Moreover, Hekmatpour does not teach “generating a display control signal in response to said window information to enable different processing of portions of said

video signal associated with said one or more special windows.” The Examiner does not discuss where this aspect of the claimed invention is found in Hekmatpour. Appellant respectfully submits Hekmatpour does not teach “different processing of portions of said video signal.”

And finally, independent claim 21 recites “wherein said different processing results in said one or more special windows being produced on said display with one or more display attributes differing from non-processed portions of said video signal.” One example of a display attribute is increased luminance (see page 13 of Appellant’s specification). The Examiner argues the video animation window in figure 2n of Hekmatpour is a special window and that “video data requires some type of decoding process”. Nothing found in Hekmatpour teaches displaying the video animation window, or any other window, with a display attribute that differs from the non-processed portions of said video signal. Appellant also disputes the Examiner’s claim that video data requires some type of decoding.

The Examiner also states that “each of Hekmatpour’s sub-windows is a special window in its own sense whether it is used to display text, chart, graphic, audio or video because the applicant does not clearly define ‘special window’ in the claim language.” Appellant disputes this statement. Independent claim 21 clearly recites “wherein said different processing results in said one or more special windows being produced on said display with one or more display attributes differing from non-processed portions of said video signal.” None of the sub-windows in Hekmatpour are displayed with one or more differing display attributes that differ from non-processed portions of said video signal. The fact that one sub-window may display text while another sub-window displays a chart does not teach this aspect of the claimed invention.

“Claims in dependent form shall be construed to incorporate by reference all the limitations of the claim incorporated by reference into the dependent claim.” 37 CFR 1.75. Therefore, claims 22, 23, 24, and 45 include all the limitations of claim 1. Since Hekmatpour does not anticipate independent claim 21 for at least the reasons discussed above, Appellant respectfully submits claims 22, 23, 24, and 45 are also not anticipated by Hekmatpour.

Claims 42, 43, 46, and 47

No Evidentiary Support In The Record

Appellant respectfully submits the Examiner makes several factual assertions without any evidentiary support in the record to reject claims 42, 43, 46, and 47. The Examiner rejects independent claims 42 and 43 under same rationale used for independent claim 21. Therefore, the factual assertions include:

(1) Video data requires some type of decoding process (see page 4 of final office action).

(2) Any sub-window is a type of special window (see page 4 of final office action).

Appellant challenged these assertions and requested evidentiary support in the Amendments dated May 3, 2003 and August 9, 2004. The Examiner did not respond to Appellant's request and failed to produce any evidentiary support for such factual assertions. Appellant therefore requests reversal of the final rejections of claims 42, 43, 46, and 47.

Anticipation

Independent claims 42 and 43 recite, in relevant part, “embedding special window information in a video signal.” Nothing found in Hekmatpour embeds special window information in a video signal. Appellant also disagrees with the Examiner’s statement that “special window information must be inherently embedded within a video signal in order for window system [sic] to process to display differently [sic] from other different type of displays such as text or audio display” (see page 14 of final office action). Special window information does not have to be embedded within a video signal. Additionally, Appellant does not understand what the Examiner means by different types of displays such as text or audio displays.

Independent claims 42 and 43 further recite “extracting said special window information from said video signal.” The Examiner claims the windows software shown in figures 2i-2p of Hekmatpour “inherently teach a processor that acts as a window decoder for extracting special window information from said video signal and responsively generating a display control signal” (page 3 of final office action). The windows shown in figures 2i-2p are examples of templates for logical pages. Hekmatpour does not teach ““extracting said special window information from said video signal.”

The Examiner also argues “Hekmatpour’s window system must inherently extract window information from a video signal in order to generate a video display (with display attributes) on a right window, in the logical partitioned logical pages, that differ from different windows such as text, audio.” Appellant notes Hekmatpour does disclose a window numbering and window identification technique that are used to link to and select a window (see col. 4, lines 61-64). This window numbering and identification technique, however, does not teach “extracting said special window

information from said video signal” and “generating a display control signal in response to said window information to enable different processing of portions of said video signal associated with said one or more special windows, wherein said different processing results in said one or more special windows being produced on said display with one or more display attributes differing from non-processed portions of said video signal.”

Moreover, Hekmatpour does not teach “generating a display control signal in response to said window information to enable different processing of portions of said video signal associated with said one or more special windows.” The Examiner does not discuss where this aspect of the claimed invention is found in Hekmatpour.

Appellant submits Hekmatpour does not teach “different processing of portions of said video signal.”

The Examiner does argue the video animation window in figure 2n of Hekmatpour is a special window and that “video data requires some type of decoding process.” Appellant respectfully submits Hekmatpour does not teach displaying the video animation window, or any other window, with a display attribute that differs from the non-processed portions of said video signal. Appellant also disputes the Examiner’s claim that video data requires some type of decoding.

And finally, independent claims 42 and 43 recite “wherein said different processing results in said one or more special windows being produced on said display with one or more display attributes differing from non-processed portions of said video signal.” One example of a display attribute is increased luminance (see page 13 of Appellant’s specification). The Examiner argues the video animation window in figure 2n of Hekmatpour is a special window. Nothing found in Hekmatpour teaches

displaying the video animation window, or any other window, with a display attribute that differs from the non-processed portions of said video signal.

The Examiner states that “each of Hekmatpour’s sub-windows is a special window in its own sense whether it is used to display text, chart, graphic, audio or video because the applicant does not clearly define ‘special window’ in the claim language.” Appellant disputes this statement. Independent claims 42 and 43 clearly recites “wherein said different processing results in said one or more special windows being produced on said display with one or more display attributes differing from non-processed portions of said video signal.” None of the sub-windows in Hekmatpour are displayed with one or more differing display attributes that differ from non-processed portions of said video signal. The fact that one sub-window may display text while another sub-window displays a chart does not teach this aspect of the claimed invention.

“Claims in dependent form shall be construed to incorporate by reference all the limitations of the claim incorporated by reference into the dependent claim.” 37 CFR 1.75. Therefore, claim 46 includes all of the limitations of claim 42 and claim 47 includes all of the limitations of claim 43. Since Hekmatpour does not anticipate independent claims 42 and 43 for at least the reasons discussed above, Appellant respectfully submits claims 46 and 47 are also not anticipated by Hekmatpour.

Claims 48 and 50

Anticipation

Independent claims 48 and 50 recite, in relevant part, “wherein said video signal includes at least one key signal embedded therein.” The Examiner argues figures 2i-2p

teach an image that includes one or more special windows (see page 6 of final office action). Figures 2i-2p, however, illustrate examples of various templates for a logical page. Nothing found in Hekmatpour teaches embedding a key signal into a video signal.

Independent claims 48 and 50 further recite "extracting said at least one key signal from said video signal." The Examiner argues the description contained in lines 25-35 of column 5 of Hekmatpour teach this aspect of the claimed invention. This cited language, however, discusses figure 3b, which illustrates a template for a logical page. The logical page includes various hypermedia objects that may be primary objects, secondary objects, pop-up objects, or hidden objects. The paragraph then describes how these different types of objects are activated. Appellant respectfully submits this cited section in Hekmatpour does not teach "extracting said at least one key signal from said video signal."

Hekmatpour also does not teach "selectively generating a display control signal in response to said at least one key signal, wherein said display control signal indicates a target area within said one or more special windows is to be specially processed." The Examiner argues the description contained in lines 25-35 of column 5 of Hekmatpour teach this aspect of the claimed invention. This cited language, however, discusses figure 3b, which illustrates a template for a logical page. The logical page includes various hypermedia objects that may be primary objects, secondary objects, pop-up objects, or hidden objects. The paragraph then describes how these different types of objects are activated. Appellant respectfully submits this cited section in Hekmatpour does not teach "selectively generating a display control signal in response to said at least one key signal, wherein said display control signal indicates a target area within said one or more special windows is to be specially processed."

And finally, independent claims 48 and 50 recite “a target area within said one or more special windows is to be specially processed in order to display said target area with one or more display attributes that differ from non-target areas.” One example of a display attribute is increased luminance (see page 13 of Appellant’s specification). The Examiner does not discuss where a target area displayed “with one or more display attributes that differ from non-target areas” is disclosed in Hekmatpour. Appellant submits Hekmatpour does not teach displaying “said target area with one or more display attributes that differ from non-target areas.”

The Examiner argues the video animation window in figure 2n of Hekmatpour is a special window and that “video data requires some type of decoding process.” Appellant respectfully submits Hekmatpour does not teach displaying the video animation window, or any other window, with a display attribute that differs from the non-processed portions of said video signal. Appellant also disputes the Examiner’s claim that video data requires some type of decoding.

The Examiner also states that “each of Hekmatpour’s sub-windows is a special window in its own sense whether it is used to display text, chart, graphic, audio or video because the applicant does not clearly define ‘special window’ in the claim language.” Appellant disputes this statement. Independent claims 48 and 50 clearly recites “wherein said display control signal indicates a target area within said one or more special windows is to be specially processed in order to display said target area with one or more display attributes that differ from non-target areas.” None of the sub-windows in Hekmatpour are displayed with one or more differing display attributes that differ from non-processed portions of said video signal. The fact that one sub-window may display text while another sub-window displays a chart does not teach this aspect of the claimed invention.

(2) Whether claims 5-9, 12, 25-29, 32, and 41 are obvious in view of Hekmatpour and Tse

The Manual of Patent Examining Procedure (MPEP) states the following in Section 2142:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Appellant submits that the combination of Hekmatpour and Tse does not render Appellant's claimed invention obvious, since the combination does not meet any of the three basic criteria listed above.

Appellant submits there is no motivation in either the references themselves or in the knowledge generally available to one of ordinary skill in the art to combine or modify Hekmatpour and Tse to produce Appellant's claimed invention. Appellant notes the "level of skill in the art cannot be relied upon to provide the suggestion to combine references" MPEP Section 2143.01. In determining the propriety of the case for obviousness, "it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification" Id.

As discussed earlier, Hekmatpour teaches a method and system for presenting interactive hypermedia objects on a computer system. Tse discloses a method and system for color key detection. Appellant respectfully submits Hekmatpour and Tse do

not provide sufficient teachings for one of ordinary skill in the relevant art to make the proposed combination.

Moreover, when an independent claim is not rendered obvious by prior art, then any claim depending from the independent claim is not obvious. In re Fine, 5 USPQ2d 1596 (Fed. Cir. 1988) (see also M.P.E.P. § 2143.03). Claims 5-9 and 12 depend from independent claim 1 while claims 25-29, 32, and 41 depend from independent claim 21. Appellant's arguments regarding Hekmatpour apply to this rejection as well. And Tse does not teach or suggest any of the claimed elements in claims 1 and 21. Therefore, Appellant respectfully submits claims 5-9, 12, 25-29, 32, and 41 are not rendered obvious by the combination of Hekmatpour with Tse because the combined references do not teach or suggest all of the claim limitations of claims 1 and 21.

(3) Whether claims 10 and 30 are obvious in view of Hekmatpour, Tse, and DeStefano

Appellant submits that the combination of Hekmatpour, Tse, and DeStefano does not render Appellant's claimed invention obvious, since the combination does not meet any of the three basic criteria for obviousness listed earlier.

Appellant submits there is no motivation in either the references themselves or in the knowledge generally available to one of ordinary skill in the art to combine or modify Hekmatpour, Tse, and DeStefano to produce Appellant's claimed invention. As discussed earlier, Hekmatpour teaches a method and system for presenting interactive hypermedia objects on a computer system. Tse discloses a method and system for color key detection. And DeStefano teaches a computer system and method for manipulating multiple graphical user interface components with a proximity pointer. Appellant respectfully submits Hekmatpour, Tse, and DeStefano do not provide sufficient

teachings for one of ordinary skill in the relevant art to make the proposed combination to produce Appellant's claimed invention.

The Examiner states the following on page 14 of the final office action:

[I]t would have been obvious to one with ordinary skill in the art at the time of the invention to combine using number sequences associated with various windows indicating a number of special windows taught by DeStefano with the windowing and video processing disclosed by Hekmatpour and Tse. Doing so enables the user to track various windows or other software containers.

Appellant respectfully submits this rationale does not provide the motivation to combine Hekmatpour, Tse, and DeStefano.

Moreover, when an independent claim is not rendered obvious by prior art, then any claim depending from the independent claim is not obvious. In re Fine, 5 USPQ2d 1596 (Fed. Cir. 1988) (see also M.P.E.P. § 2143.03). Claim 10 ultimately depends from independent claim 1 and claim 30 from independent claim 21. Appellant submits the combination of Hekmatpour, Tse, and DeStefano does not teach all of the claim limitations of claims 1 and 21. Therefore, claims 10 and 30 are also not obvious in view of Hekmatpour, Tse, and DeStefano.

(4) Whether claims 11 and 31 are obvious in view of Hekmatpour, Tse, and Priem

Appellant submits that the combination of Hekmatpour, Tse, and Priem does not render Appellant's claimed invention obvious, since the combination does not meet any of the three basic criteria for obviousness listed earlier.

Appellant submits there is no motivation in either the references themselves or in the knowledge generally available to one of ordinary skill in the art to combine or modify Hekmatpour, Tse, and Priem to produce Appellant's claimed invention. As discussed earlier, Hekmatpour teaches a method and system for presenting interactive hypermedia objects on a computer system. Tse discloses a method and system for color key detection. And Priem teaches a z-buffer memory for use in displaying two and three dimensional graphics within a plurality of windows. Appellant respectfully submits Hekmatpour, Tse, and Priem do not provide sufficient teachings for one of ordinary skill in the relevant art to make the proposed combination to produce Appellant's claimed invention.

The Examiner states the following on page 16 of the final office action:

[I]t would have been obvious to one with ordinary skill in the art at the time of the invention to combine providing the shape sequence indicating a shape of said target area when said target area is not rectangular as taught by Priem with the method for using windows as taught by Hekmatpour and Tse. Doing so allows the programmer to provide windows and other icons having various shapes.

Appellant respectfully submits this rationale does not provide the motivation to combine Hekmatpour, Tse, and Priem.

Moreover, when an independent claim is not rendered obvious by prior art, then any claim depending from the independent claim is not obvious. In re Fine, 5 USPQ2d 1596 (Fed. Cir. 1988) (see also M.P.E.P. § 2143.03). Claim 11 ultimately depends from independent claim 1 and claim 31 from independent claim 21. Appellant submits the

combination of Hekmatpour, Tse, and Priem does not teach all of the claim limitations of claims 1 and 21. Therefore, claims 11 and 31 are also not obvious in view of Hekmatpour, Tse, and Priem.

(5) Whether claims 49 and 51 are obvious in view of Hekmatpour, Tse, and Kaply

Appellant submits that the combination of Hekmatpour, Tse, and Kaply does not render Appellant's claimed invention obvious, since the combination does not meet any of the three basic criteria for obviousness listed earlier.

Appellant submits there is no motivation in either the references themselves or in the knowledge generally available to one of ordinary skill in the art to combine or modify Hekmatpour, Tse, and Kaply to produce Appellant's claimed invention. As discussed earlier, Hekmatpour teaches a method and system for presenting interactive hypermedia objects on a computer system. Tse discloses a method and system for color key detection. And Kaply teaches a windowing environment for displaying previously obscured information. Appellant respectfully submits Hekmatpour, Tse, and Kaply do not provide sufficient teachings for one of ordinary skill in the relevant art to make the proposed combination to produce Appellant's claimed invention.

The Examiner states the following on page 16 of the final office action:

[I]t would have been obvious to one with ordinary skill in the art at the time of the invention to combine the step of disabling special processing when a special window is covered by another window with the other window processing as taught by Kaply with the window and color processing disclosed by Hekmatpour. Doing so reduces processing time and increase [sic] system performance.

Appellant respectfully submits this rationale does not provide the motivation to combine Hekmatpour, Tse, and Kaply.

Moreover, when an independent claim is not rendered obvious by prior art, then any claim depending from the independent claim is not obvious. In re Fine, 5 USPQ2d 1596 (Fed. Cir. 1988) (see also M.P.E.P. § 2143.03). Claim 49 depends from independent claim 48 and claim 51 from independent claim 50. Appellant submits the combination of Hekmatpour, Tse, and Kaply does not teach all of the claim limitations of claims 48 and 50. Therefore, claims 49 and 51 are also not obvious in view of Hekmatpour, Tse, and Kaply.

In light of the arguments above, Appellant believes that all claims pending in the application are allowable and therefore requests a reversal of the final rejection of such claims.

Respectfully submitted,



Date: May 23, 2005

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CLAIMS APPENDIX

Claim 1 (Previously presented) An apparatus for generating an image on a display, wherein said image includes one or more special windows, comprising:

a window manager to embed special window information in a video signal, wherein said video signal characterizes said image to be generated on said display; and

a window decoder to extract said special window information from said video signal and responsively generate a display control signal, wherein said display control signal enables special processing of portions of said video signal associated with said one or more special windows, and wherein said special processing results in said one or more special windows being produced on said display with one or more display attributes that differ from non-processed portions of said video signal.

Claim 2 (Previously presented): The apparatus of claim 1, wherein said window manager is included in an operating system.

Claim 3 (Original): The apparatus of claim 1, wherein said window decoder is implemented as an application-specific integrated circuit.

Claim 4 (Previously presented): The apparatus of claim 1, further comprising:

a target area in said special windows to be specially processed in response to said display control signal, wherein said special processing results in said target area being produced on said display with one or more display attributes that differ from non-target areas; and

a video interface to transmit data including said special window information to said display.

Claim 5 (Original): The apparatus of claim 4, further comprising:

pixels contained in said display;

a first color signal serving as a video clock signal for said special window information;

a second color signal including said special window information; and

a third color signal.

Claim 6 (Original): The apparatus of claim 5, further comprising:

key signals including a pattern of bits of said special window information to encode a target area position, and corresponding to a pattern of said pixels depicted in said display.

Claim 7 (Original): The apparatus of claim 5, further comprising:

pixel pairs in said display, each member pixel of said pixel pairs being proximately located, said pixel pairs being colored according to said first color signal, said second color signal, and said third color signal in an additively complementary manner to visually approximate a single pixel of a mixed color.

Claim 8 (Original): The apparatus of claim 6, wherein components of said key signals include:

a start sequence indicating a beginning of said key signals;

a code sequence distinguishing said key signals from said data;

a horizontal offset sequence indicating a boundary of said target area relative to a horizontal position of said key signals;

a vertical offset sequence indicating a second boundary of said target area relative to a vertical position of said key signals;

a CRC checksum verifying said horizontal offset sequence and said vertical offset sequence; and

a stop sequence indicating an end of said key signals.

Claim 9 (Original): The apparatus of claim 8, further comprising:

nondifferential key signal data indicating said start sequence and said stop sequence; and

differential key signal data indicating remaining components of said key signals.

Claim 10 (Original): The apparatus of claim 8, further comprising:

a number sequence indicating a number of special windows.

Claim 11 (Original): The apparatus of claim 8, further comprising:

a shape sequence indicating a shape of said target area when said target area is not rectangular.

Claim 12 (Original): The apparatus of claim 8, further comprising:

a selection sequence indicating a selection from among a plurality of available special processes.

Claim 13 (Withdrawn): The apparatus of claim 6, wherein scroll bars in said special windows function as controls for special processing.

Claim 14 (Withdrawn): The apparatus of claim 6, wherein said key signals include hidden watermarks.

Claim 15 (Withdrawn): The apparatus of claim 6, wherein said key signals include visibly apparent symbols.

Claim 16 (Withdrawn): The apparatus of claim 6, further comprising:

key signal verification circuits identifying said special windows and responsively enabling an attribute;

a vertical counter monitoring a number of vertically scanned lines of said pixels occurring after a vertical synchronization signal;

a horizontal counter monitoring a number of horizontally scanned pixels after a horizontal synchronization signal;

registers storing said target area position in terms of said vertically scanned lines and said horizontally scanned pixels when said attribute is enabled;

a comparator monitoring a position of said pixels in terms of said vertically scanned lines and said horizontally scanned pixels, comparing said position of said pixels to said target area position, and responsively generating said display control signal to enable special processing.

Claim 17 (Withdrawn): The apparatus of claim 16, further comprising:

an internal logic clock signal denoting an intended duration for said special processing of said pixels in said target area; and

a frequency control unit synchronizing said internal logic clock signal to said video clock signal to regulate a horizontal width of said pixels in said target area with a duration of said display control signal, thereby calibrating said special processing with a scan of said display.

Claim 18 (Withdrawn): The apparatus of claim 17, wherein said key signal verification circuits enable said attribute when a duration of said key signals in terms of internal logic clock signal periods is consistent with a key signal format.

Claim 19 (Withdrawn): The apparatus of claim 16, wherein said attribute is disabled by an absence of said key signals.

Claim 20 (Withdrawn): The apparatus of claim 16, wherein said key signal verification circuits enable said attribute when said key signals exist during one scan of said display and persist for a number of scans of said display.

Claim 21 (Previously presented): A method for generating an image on a display, wherein said image includes one or more special windows, comprising the steps of:

embedding special window information in a video signal, wherein said video signal characterizes said image to be generated on said display;

extracting said special window information from said video signal; and

generating a display control signal in response to said window information to enable different processing of portions of said video signal associated with said one or more special windows, wherein said different processing results in said one or more special windows being produced on said display with one or more display attributes differing from non-processed portions of said video signal.

Claim 22 (Previously presented): The method of claim 21, wherein said step of embedding is performed by a window manager that is included in an operating system.

Claim 23 (Original): The method of claim 21, wherein said window decoder is implemented as an application-specific integrated circuit.

Claim 24 (Previously presented): The method of claim 21, further comprising the steps of:

 specially processing a target area in said special windows in response to said display control signal, wherein said special processing results in said target area being produced on said display with one or more display attributes that differ from non-target areas; and

 transmitting data including said special window information to said display using a video interface.

Claim 25 (Original): The method of claim 24, further comprising the steps of:

 depicting pixels in said display;

 transmitting a first color signal serving as a video clock signal for said special window information;

 transmitting a second color signal including said special window information;
and

 transmitting a third color signal.

Claim 26 (Original): The method of claim 25, further comprising the steps of:

transmitting key signals including a pattern of bits of said special window information to encode a target are position, and

corresponding to a pattern of said pixels depicted in said display.

Claim 27 (Original): The method of claim 25, further comprising the step of:

depicting pixel pairs in said display, each member pixel of said pixel pairs being proximately located, said pixel pairs being colored according to said first color signal, said second color signal, and said third color signal in an additively complementary manner to visually approximate a single pixel of a mixed color.

Claim 28 (Original): The method of claim 26, wherein said step of transmitting said key signals further comprises the step of concurrently transmitting within said key signals:

- a start sequence indicating a beginning of said key signals;

- a code sequence distinguishing said key signals from said data;

- a horizontal offset sequence indicating a boundary of said target area relative to a horizontal position of said key signals;

- a vertical offset sequence indicating a second boundary of said target area relative to a vertical position of said key signals;

- a CRC checksum verifying said horizontal offset sequence and said vertical offset sequence; and

- a stop sequence indicating an end of said key signals.

Claim 29 (Original): The method of claim 28, further comprising the steps of:

- transmitting nondifferential key signal data indicating said start sequence and said stop sequence; and

- transmitting differential key signal data indicating remaining components of said key signals.

Claim 30 (Original): The method of claim 28, further comprising the step of:

transmitting a number sequence indicating a number of special windows.

Claim 31 (Original): The method of claim 28, further comprising the step of:

transmitting a shape sequence indicating s shape of said target area when said target area is not rectangular.

Claim 32 (Original): The method of claim 28, further comprising the step of:

transmitting a selection sequence indicating a selection from among a plurality of available special processes.

Claim 33 (Withdrawn): The method of claim 26, wherein scroll bars in said special windows function as controls for special processing.

Claim 34 (Withdrawn): The method of claim 26, wherein said key signals include hidden watermarks.

Claim 35 (Withdrawn): The method of claim 26, wherein said key signals include visibly apparent symbols.

Claim 36 (Withdrawn): The method of claim 26, further comprising the steps of:

identifying said special windows and responsively enabling an attribute using key signal verification circuits;

monitoring a number of vertically scanned lines of said pixels occurring after a vertical synchronization signal using a vertical counter;

monitoring a number of horizontally scanned pixels after a horizontal synchronization signal using a horizontal counter;

using registers to store said target area position in terms of said vertically scanned lines and said horizontally scanned pixels when said attribute is enabled;

using a comparator to monitor a position of said pixels in terms of said vertically scanned lines and said horizontally scanned pixels, to compare said position of said pixels to said target area position, and to responsively generate said display control signal to enable special processing.

Claim 37 (Withdrawn): The method of claim 26, further comprising the steps of:

denoting an intended duration for said special processing of said pixels in said target area using an internal logic clock signal; and

using a frequency control unit to synchronize said internal logic clock signal to said video clock signal and regulate a horizontal width of said pixels in said target area with a duration of said display control signal, thereby calibrating said special processing with a scan of said display.

Claim 38 (Withdrawn): The method of claim 36, wherein said key signal verification circuits enable said attribute when a duration of said key signals in terms of internal logic clock signal periods is consistent with a key signal format.

Claim 39 (Withdrawn): The method of claim 36, wherein said attribute is disabled by an absence of said key signals.

Claim 40 (Withdrawn): The method of claim 36, wherein said key signal verification circuits enable said attribute when said key signals exist during one scan of said display and persist for a number of scans of said display.

Claim 41 (Original): The method of claim 26, wherein said step of transmitting said key signals further comprises the steps of:

transmitting a start sequence indicating a beginning of said key signals;

transmitting a code sequence distinguishing said key signals from said data;

transmitting a horizontal offset sequence indicating a boundary of said target area relative to a horizontal position of said key signals;

transmitting a vertical offset sequence indicating a second boundary of said target area relative to a vertical position of said key signals;

transmitting a CRC checksum verifying said horizontal offset sequence and said vertical offset sequence; and

transmitting a stop sequence indicating an end of said key signals.

Claim 42 (Previously presented): A system for generating an image on a display, wherein said image includes one or more special windows, comprising:

means for embedding special window information in a video signal, wherein said video signal characterizes said image to be generated on said display;

means for extracting said special window information from said video signal;
and

means for generating a display control signal in response to said window information to enable different processing of portions of said video signal associated with said one or more special windows, wherein said different processing results in said one or more special windows being produced on said display with one or more display attributes differing from non-processed portions of said video signal.

Claim 43 (Previously presented): A computer-readable medium comprising program instructions for generating an image comprised of one or more special windows on a display by performing the steps of:

embedding a special window information in a video signal using a window manager, wherein said video signal characterizes said image to be generated on said display;

extracting said special window information from said video signal using a window decoder; and

generating a display control signal in response to said window information to enable special processing of portions of said video signal associated with said one or more special windows, wherein said special processing results in said one or more special windows being produced on said display with one or more display attributes that differ from non-processed portions of said video signal.

Claim 44 (Previously presented): The apparatus of claim 1, wherein the special window information is embedded in the video signal so as to be visually indistinctive to a viewer.

Claim 45 (Previously presented): The method of claim 21, wherein the special window information is embedded in the video signal so as to be visually indistinctive to a viewer.

Claim 46 (Previously presented): The system of claim 42, wherein the special window information is embedded in the video signal so as to be visually indistinctive to a viewer.

Claim 47 (Previously presented): The computer-readable medium of claim 43, wherein the special window information is embedded in the video signal so as to be visually indistinctive to a viewer.

Claim 48 (Previously presented): A method for displaying an image on a display, wherein said image includes one or more special windows, comprising the steps of:

- receiving a video signal that represents said image to be generated on said display, wherein said video signal includes at least one key signal embedded therein;

- extracting said at least one key signal from said video signal;

- selectively generating a display control signal in response to said at least one key signal, wherein said display control signal indicates a target area within said one or more special windows is to be specially processed in order to display said target area with one or more display attributes that differ from non-target areas; and

- generating an output signal based on said video signal and the presence or absence of said display control signal, wherein said output signal produces said image including said one or more special windows on said display.

Claim 49 (Previously presented): The method of claim 48, further comprising the step of disabling special processing when a special window is covered by another window.

Claim 50 (Previously presented): An apparatus for displaying an image on a display, wherein said image includes one or more special windows, comprising:

means for receiving a video signal that represents said image to be generated on said display, wherein said video signal includes at least one key signal embedded therein;

means for extracting said at least one key signal from said video signal;

means for selectively generating a display control signal in response to said at least one key signal, wherein said display control signal indicates a target area within said one or more special windows is to be specially processed in order to display said target area with one or more display attributes that differ from non-target areas; and

means for generating an output signal based on said video signal and the presence or absence of said display control signal, wherein said output signal produces said image including said one or more special windows on said display.

Claim 51 (Previously presented): The apparatus of claim 50, further comprising means for disabling special processing when a special window is covered by another window.

RELATED PROCEEDINGS APPENDIX

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P2106

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.



Paper No. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD D. CAPPELS

Appeal No. 2002-1304
Application No. 08/900,964

ON BRIEF

MAILED

APR 15 2003

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Before KRASS, BARRETT and DIXON, Administrative Patent Judges.
KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 26-45.

The invention pertains to the generation of high-luminance windows on a computer display device.

Representative independent claim 26 is reproduced as follows:

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26. A system for generating a high-luminance viewing window on a computer display device, comprising:

- a host computer system for running an application program;
- a processor device for automatically generating a window control signal in response to said application program;
- a window generator device, for receiving said window control signal, and for generating a window information signal; and
- a display control device included in said computer display device for receiving a video signal and said window information signal, for processing said video signal in response to said window information signal and for providing a processed video signal to a computer display screen to generate said high-luminance viewing window thereon.

The examiner relies on the following references:

Whitehead	4,733,229	Mar. 22, 1988
Lagoni	5,204,748	Apr. 20, 1993
McLaughlin et al. (McLaughlin)	5,570,108	Oct. 29, 1996

Claims 26-45 stand rejected under 35 U.S.C. 103. As evidence of obviousness, the examiner offers McLaughlin and Whitehead with regard to claims 26, 27, 34-37 and 41-45, adding Lagoni with regard to claims 28-33 and 38-40.

Reference is made to the brief and answer for the respective positions of appellant and the examiner.

OPINION

At the outset, although ignored by appellant and the examiner, we note that claims 43 and 44, directed to a "computer-readable medium," are awkward. While there is nothing intrinsically wrong with claiming such a computer-readable medium, it is a bit awkward to recite that the medium has instructions for performing steps, e.g., "using a display control device..." wherein such steps require a structure. In any event, we make no rejection based on this language, leaving it to appellant and the examiner to make sure that all claims particularly point out and distinctly claim applicant's invention.

With regard to the independent claims, the examiner applies McLaughlin for a teaching of generating a high-luminance viewing window 300 on a computer display 16 comprising a host computer system for running an application program (citing column 5, lines 15-18), a processor 11 for automatically generating a window control signal (citing column 14, line 37) on link 16E in response to the application program (citing column 14, lines 36-42 and column 15, lines 13-22), and a computer display device 16, wherein the computer display device comprises a window generator

device, identified as processor 16C in Figure 1, for receiving the window control signal and for generating a window information signal (citing column 5, lines 15-21), and a display control device (control circuitry 16D in Figure 1 and column 5, line 14) to control characteristics, such as size, position, brightness and contrast (column 3, lines 50-57), of the main window and the high-luminance window (column 15, lines 13-22). The examiner contends that these two windows have "two distinct informations" and both are displayed on a CRT display screen in response to window information from manual controls 16B or from the window generator 16C. The examiner further points to the display device 16 receiving a video signal from video board 20 under control of processor 11.

The examiner recognizes that McLaughlin does not explicitly disclose the control circuit 16D receiving the video signal and processing the received video signal in response to the window information signal in order to generate a high-luminance viewing window. However, the examiner turns to Whitehead for a teaching of highlighting an area of a CRT, identifying highlight selector 38 in Figure 2 of Whitehead as a window generator device. After discussing how Whitehead discloses various elements for receiving a window control signal generated by a highlight operator

control, generation of a window information signal and a display control device, at page 4 of the answer, the examiner concludes that it would have been obvious to substitute Whitehead's window generator device and the control display device for the window generator device and the control display device of McLaughlin "because this would allow the operator adjusting the brightness and/or contrast of the selected highlight area and/or the background image independently, as taught by Whitehead (see abstract)" [answer-page 5].

We will reverse the examiner's rejections based on a lack of a showing of a prima facie case of obviousness with regard to the instant claimed subject matter.

Each independent claim specifically requires, in one form or another, a display control for receiving a video signal and a window information signal (which is generated from a window control signal provided by a processor responsive to an application program) and processing the video signal responsive to the window information signal in order to generate a high-luminance viewing window. Now, the examiner recognizes this deficiency in McLaughlin and so relies on Whitehead to provide this teaching. However, the examiner specifically identifies

highlight selector 38 of Whitehead as the "window generator device."

It is clear, from Whitehead, that highlight selector 38 selects a different look-up table in a transfer function memory 30 for the highlighted area and it may also intensify the image in that area (column 4, lines 28-31), but it does not, in any way, generate a window, as required by a "window generator device." Whitehead may highlight a portion of an image but does not generate its own distinct image via a "window generator device."

While no separate window is generated by Whitehead, one might say that highlight selector 38 of Whitehead could be considered a "window generator device," as claimed, since it does receive a window control signal (from highlight operator controls 15) and does generate a signal (see the outputs of highlight selector 38) which could, conceivably, be labeled "a window information signal." However, even if we interpret the highlight selector in this manner, this is only as far as the interpretation can go. For example, instant claim 26 further calls for the display control device to receive a video signal and the window information signal (which was generated from the window generator device previously) and to use that window

information signal to process the video signal so that the processed video signal can be provided to the computer display screen to generate the high-luminance viewing window. The output of Whitehead's highlight selector 38, i.e., what the examiner has interpreted as the "window information signal," is not, in any way, used to process a video signal so as to generate a high-luminance viewing window, as claimed.

It is true that the examiner is employing McLaughlin as the reference teaching the claimed display control device 16 which receives the video signal from the video board 20. However, while McLaughlin indicates that the video board 20 drives display device 16 (column 5, lines 59-60), there is nothing therein indicating that the display device processes a video signal from the board, in response to a window information signal. Moreover, even though the examiner also points to Figure 6 of Whitehead for a teaching of a video signal, we find nothing in Whitehead indicating that this video signal, 84 in Figure 6, is processed in response to the "window information signal" output from highlight selector 38. In fact, when the Figure 6 embodiment is placed in the Figure 2 embodiment of Whitehead, it would appear that an input to the highlight selector 38 would initiate from the video signal, rather than the video signal and the "window

information signal" being both input to a "display control device."

Thus, even if the references were combinable, and we are not convinced, from the examiner's rationale, that they are so combinable, or that the artisan would have sought to combine them in any manner for any purpose, it would appear to us that the combination would still not result in the instant claimed subject matter because no reasonable combination of these references would have resulted in the claimed system and method whereby a processor automatically generates a window control signal in response to an application program, a window information signal is generated from that window control signal, and that window information signal so generated is then used to process a video signal in order to generate a high-luminance viewing window.

Moreover, the examiner's rationale for making the combination, i.e., "because this would allow the operator adjusting the brightness and/or contrast of the selected highlight area and/or the background image independently, as taught by Whitehead (see abstract)" [answer-page 5], appears to be based on impermissible hindsight.

It would appear that McLaughlin, alone, would teach the adjustment of brightness and/or contrast, of a selected highlighted window while leaving a background portion of a display at a lower brightness, or luminance. This is based on McLaughlin's teaching of enabling a user to vary display parameters such as brightness, or contrast, picture size or position (see abstract), including selection of a "maximum displayed intensity value..." Thus, the image in window 300 can have its parameters, e.g., luminance, varied to differ from that of the background portion of the screen. McLaughlin would also appear to run an application program and a processor wherein that processor needs to generate some type of control signal in order to establish, or generate, the window 300. However, it is not clear that McLaughlin, or the combination of McLaughlin and Whitehead, teaches or suggests the combination or interrelationship of the claimed signals wherein the application program causes a processor to automatically generate a window control signal, then that window control signal is used to generate a window information signal which, in turn, is used to process a video signal such that the processed video signal then causes a computer display screen to generate a high-luminance viewing window thereon.

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We have reviewed the abstract of Whitehead, which the examiner points to for the suggestion of adjusting brightness/contrast of a selected highlighted area and/or background image independently but this teaching appears to be directed to highlighting portions of an image so as to give better contrast, as in a medical image. It does not appear to be directed to highlighting only certain portions of a display "screen" and certainly does not add anything more to McLaughlin which already suggests, in our view, the adjustment of the luminance of a window independently of a background section.


While the examiner applies Lagoni in a rejection of certain dependent claims, since Lagoni does not provide for the deficiencies of the primary references regarding the independent claims, we also will not sustain the rejection of those claims to which McLaughlin, Whitehead and Lagoni are applied in combination.


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Application No. 08/900,964

The examiner's decision rejecting claims 26-45 under 35 U.S.C. 103 is reversed.

REVERSED

ERROL A. KRASS
Administrative Patent Judge


LEE E. BARRETT
Administrative Patent Judge


JOSEPH L. DIXON
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
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EK/RWK

Appeal No. 2002-1304
Application No. 08/900,964

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